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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,119

05/11/2006

Rainer Gendermann

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4889

24978 7590 11/22/2010

GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

EXAMINER

HSIAO, JAMES K

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

11/22/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/573,119	Applicant(s) GENDERMANN, RAINER	
	Examiner JAMES K. HSIAO	Art Unit 3657	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 16, 17, 20, 22, 23, 25-28, 32 and 33.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Bradley T King/
Primary Examiner, Art Unit 3657

Continuation of 11. does NOT place the application in condition for allowance because: The arguments filed 9/21/2010 have been considered but are not persuasive. Given the broadest reasonable interpretation of the claims, examiner maintains the position that the present invention is unpatentable over Yamaguchi in view of Rotter. In regards to the arguments pertaining to claim 16, examiner respectfully disagrees. Applicant contends that the channel 23/25a is not a bypass channel and is not connected to the oil inlet 19 as claimed. As broadly recited, the oil module is provided with at least one channel for guiding water and at least one channel for guiding oil, one of the channels being an oil cooler bypass channel connecting an oil inlet to an oil outlet. Element 23 is interpreted as part of a bypass channel. Yamaguchi discloses in paragraph [31] that the direction of flow can be in either direction, using element 23 as a so called inlet passage, whereby it would bypass one of the coolers. In addition, the limitation "connecting" is not limited to a direct connection, it can be interpreted as connecting even with additional structure providing communication. The arguments appear to be more specific than what is required by the limitations set by the claim.

Regarding the second argument, and claims 20, 25, 32, and 33, applicant does not agree with the interpretation that the element 25a, is part of the bypass channel. Examiner did not switch the identification of the bypass channel, examiner has simply interpreted 25a as a section of the bypass channel, including 23, as seen in figure 1. Applicant then contends that the channel is not connected to the oil outlet, as mentioned above, the limitation "connecting" is not limited to a direct connection, it can be interpreted as connecting even with additional structure providing communication. The section 25a of the bypass channel does extend through the plate 25 from left to right or vice versa. It is then contended that examiner has mischaracterized the carrier element. However, as broadly recited, the carrier element is interpreted as any structure therein that carries the oil module. Element, 25, 46 and 47 carry the module as seen in figure 4.

Regarding the arguments pertaining to claim 17, examiner takes the broadest reasonable interpretation of "slit extending over an entire thickness of the base plate" and interprets 25a as being said slit and as seen in figure 2, extends over an entire thickness of the plate, as no frame of reference is given for said thickness.

Regarding the arguments pertaining to claims 22 and 23, examiner takes the broadest reasonable interpretation of "a cross section comprising a throttle effect. As stated in the office action, Yamaguchi discloses sections of elements 23 and 25a, that have cross sections that narrow in certain sections, thereby affecting flow. The limitation "throttle effect" only requires that fluid flow is increased due to a narrowing section of its carrier. It appears that the arguments are more specific than the limitations set by the claims.

JKH